

Law Ministers of the Olden Time

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ously organized counties — and the bill was defeated. The days of sharperism in those counties have passed, we trust, and the affairs of these counties are now managed by actual settlers who are honestly chosen by the teeming hundreds of honest citizens who are breaking the virgin soil of the broad and fertile prairies that are yielding, in great abundance, the luxuries of life, and who are not wringing their wealth from the honest tax-payers, but wring it from the rich earth.

[TO BE CONTINUED.]

LAW MINISTERS OF THE OLDEN TIME.

BY HAWKINS TAYLOR, WASHINGTON, D. C.

ON the 4th of July, 1836, the territory of Wisconsin was organized. Henry Dodge was appointed governor; Charles Dunn, chief justice; David Irwin and ———, associate justices; ——— Slaughter, secretary; W. W. Chapman, district attorney, and Francis Gehm, marshal of the territory. Dodge, Dunn, and Irwin were citizens of that part of the territory east of the Mississippi river, and Chapman and Gehm of what is now Iowa, — Gehm living at Dubuque, and Chapman at Burlington. At the organization of the territory, the only counties west of the Mississippi were Dubuque and Des Moines. At the session of the legislature, held at Belmont that winter, there were created, out of Dubuque, the counties of Jackson, Clinton, Scott, and Cedar; and out of Des Moines, the counties of Lee, Van Buren, Henry, Slaughter (Washington), Louisa, and Muscatine. David Irwin was assigned to that part of the territory, and, in company with Charles Mason, went to Burlington in the spring of 1837, and settled the place now occupied by Judge Mason. Irwin was originally from Virginia, but had been appointed a judge for the territory of Michigan, and presided in that part of the territory now Wisconsin. Judge Irwin was a man of ability, without

the ordinary vices of that day; he decided promptly and correctly. Few, if any, better judges ever presided in that district. He was, and is, a bachelor, now living in Texas. When Iowa was made a territory, Irwin went back to Wisconsin and remained on the bench until 1841, when he was removed by Gen. Harrison, as President, and went to Texas, where he has lived since; he was a hard rebel during the war, and is a democrat now.

The first court in Lee county was held at Fort Madison on the 27th of January, 1837. David Irwin, judge; W. W. Chapman, U. S. district attorney; Francis Gehm, marshal; Joshua Owen, sheriff. The judge appointed John H. Lines clerk of the court. The grand jury at that time were, Isaac Johnson, John Gregg, Isaac Briggs, E. D. Ayres, Wm. Anderson, Samuel Morrison, P. P. Jones, Wm. Richards, Henry Hawkins, George Herring, Richard Dunn, Edwin Guthrie, Jesse Dickey, C. E. Stone, David Weight, John Stephenson, George W. Ball, Benjamin Brattain, Joseph Skinner, Garret J. Woods, John R. Shafer, James McClenny, and Samuel W. Weaver. The judge decided that the jury was illegally summoned, and there was no grand jury at that term, and little business done.

August 28th, 1837, the second term of court was held — the same officers of court as at the March term. Samuel Ross, Jesse Wilson, P. P. Jones, John Gregg, Campbell Gilmore, Jesse O'Neil, John Box, Wm. Tyrell, Lorenzo Bullard, Leonard B. Parker, John G. Kennedy, Abraham Hundaker, George Herring, Wm. Anderson, Benjamin Brattain, E. D. Ayres, Henry Hawkins, Johnson J. Thacris, John Stephenson, Aaron White, Jos. Skinner, Jos. S. Douglass, and Thos. Small, jr., grand jurors. E. D. Ayres was made foreman of the grand jury, and Philip Viele prosecuting attorney. During the term there were about two hundred bills of indictment found, but they were all demurred out of court, so that no convictions followed the wholesale action of the grand jury. Of the officials of these first courts, Chapman, after being the first delegate in congress, went to Oregon, where he now re-

sides. Gehm, the marshal, is dead. Owens went to California, where he resides as a respectable, good citizen. Lines, the clerk, after holding the clerkship of the county for many years, went to Oregon, where he died in a few years time, leaving his family comfortable so far as the things of this world are concerned. Of the grand jury, Gregg, Briggs, Stephenson, Brattain, White, and Ross, all went to Oregon; Ayres, Anderson, Hawkins, Herring, Dunn, Guthrie, McClenny, Parker, Hundaker, Douglass, Wilson, Gilmore, O'Neil, and Small, are all dead. Douglass, one of the brightest minds in the territory, was blown up on the Moselle on his return home from the inauguration of President Harrison, in the spring of 1841. He was to have one of the land offices at Burlington, and had he lived, would no doubt have been one of the leading men of the territory and state. Others of the members may be dead. Stone is a lawyer at Council Bluffs, and Wright still lives at West Point, and is as full of democracy now as then. Many of the parties named have changed their politics several times since 1837, but not so with David. I think it safe to say he has talked more unadulterated democracy in the thirty-four years since the meeting of that grand jury than any other man in the state. Capt. Guthrie, one of the noblest spirits that ever breathed, was killed in Mexico during the Mexican war. Guthrie was for many years a justice of the peace. His first commission came from the governor of Michigan territory, then from Governor Dodge, then from Governor Lucas, but all the time living and acting in the village of Fort Madison. I never knew what the captain's religious sentiments were, if he had any, but he drank no liquor, he did not gamble, he was always polite and manly, and moral courage itself. When trying a case, no man ever failed to get justice from Squire Guthrie because of his poverty or unpopularity, and no man ever got more than justice because of his wealth or position in society. He hated slavery, and loved justice and freedom. These qualities made him popular with all good men, but the very reverse with another class that were far too numerous at that

day, as well as now. But the captain loved to fish and shoot above almost any man that I ever met,—and Sunday being a leisure day, he too often would slip down into the bottom below town with his fishing-rod or gun, to fish or shoot ducks or prairie chickens. This distressed the church-going people so that at each time that his commission was to be renewed, there would be gotten up a strong remonstrance against his re-appointment, that would be signed by the worst and best classes of society, if the whisky-drinking, gambling fraternity, and the zealous churchmen are to be taken as the worst and best of society. But the middlemen always kept the captain in office as long as he wanted it. The captain was almost equal to Mr. Lincoln as a joker, often telling stories at his own expense. While the captain was justice of the peace he also acted as deputy county clerk occasionally, when the clerk was absent. One day when the clerk was absent a man by the name of Tungate came into the office, and called for a “pair of licenses” for a young man by the name of Mann and a Miss Brewer. Guthrie inquired into the case, and to make the matter sure, he made Tungate file his affidavit that the parents of the girl had given their free consent to the match, when he issued the license and promised to go down and marry the parties at four or five o’clock that afternoon. Brewer lived a few miles below town. At about 4 p. m. the squire took his dog and gun and started to the wedding, proposing to kill a few ducks on the way. Just as he got to the lower part of the town, he saw Tungate coming up the road in full run. The squire, supposing that something had happened to put off the wedding, stopped, but as soon as Tungate got within hallooing distance, he cried out, “Come on, come on — all right now; they have given their consent.” When Tungate got his breath so that he could explain, it came out that Brewer and his wife had refused to give their consent to the match, until Tungate produced the license, when thinking that further opposition was useless, they gave their consent.

The jail in use at that time was a little log house on Elm

street, near the upper square, belonging to Henry D. Davis. Davis was a shoemaker, and used the jail as a shop, as well as renting it to the county. At that time the two hardest cases in Fort Madison were Jim Clark and Joe Morehead, both big, rough, drunken, dangerous fellows, and all the time in some sort of a scrape, and often in jail; in fact, to be in jail suited them well, for it gave them board at the county's expense, and they could go in and out as they pleased. On one occasion when Morehead was boarding at the jail, he cut up into all sorts of shapes, entirely destroying, the stock of leather that Davis had on hand. The next morning, when Davis went to his jail shop, he found his leather entirely destroyed. Morehead showed him the pieces as cut up, and inquired what sort of shoes he could make out of them. But Davis had no remedy. He could not prove that Morehead had destroyed his leather, and if he did, he had no business to use the jail as a shop. As before said, Squire Guthrie was no favorite with the rowdies. One day Jim Clark came and demanded a writ of ejectment against Joe Morehead. Guthrie had committed Clark to jail for some offense, and a few days later he had committed Morehead; and when the constable put Morehead in Clark went out, and demanded of the same justice that had committed them both, a writ of ejectment against the new comer for "jumping his claim," a squatter phrase of that day. Guthrie ordered Clark off, telling him to go back to jail, where he belonged. Clark went off and got from one of Guthrie's enemies the necessary fee for the writ, when he went back and tendered the money for the writ, when the squire again refused to issue the writ, and ordered Clark off, when Clark stepped outside of the door, swearing terrible oaths and threatening what he would do then and there if the writ was not issued at once, and for the purpose of carrying out his threat he commenced unbuttoning his clothes, when the squire took up a good hickory club, well selected for defense and the enforcement of the law, and with both hands belabored Clark until he halloed "murder," "murder." By the time help came his head was completely

covered with cuts, bruises, and blood. Guthrie was arrested for assault and battery, and taken out five or six miles for trial. The trial lasted several days and was prosecuted with much bitterness by the enemies of Guthrie, and defended with great earnestness by his friends. Squires Briggs and Ross tried the case. Judge Viele prosecuted, and Henry Eno defended. The court acquitted Guthrie, deciding that the statute administered was not recognized by all the courts, but that its application as administered, and under the circumstances, was admissible and appropriate, and well calculated to be useful. Guthrie had no further trouble with the roughs—they found out that the “Yankee” would fight, and that fully satisfied them.

April 2d, 1838, the third and last term of court held in Lee county while a part of the territory of Wisconsin, was commenced in Fort Madison. The same Judge and other officers as at the previous terms. The grand jurors were, Theophilus Bullard, Jas. McAleny, Joseph White, Abraham Hundaker, Robert Herring, Jas. T. Dinwiddie, Wm. D. Knapp, Joseph Woods, Isaac Johnson, Charles M. Jennings, John Granter, Jesse Dickey, Henry D. Davis, John Gregg, Jefferson Chitwood, Wm. P. Hoagland, Lewis Pitman, Alfred F. Kenneday, Benjamin Thomas, and Hawkins Taylor. The lawyers in attendance at that court were, J. W. Woods, David Room, Henry Eno, M. D. Bendney, James W. Grimes, and Franklin Perin. Isaac Van Allen, now of Peoria, Ill., was admitted as a member of the bar at that court. At the suggestion of Judge Viele, the prosecuting attorney, Jas. T. Dinwiddie was made foreman of the grand jury. Dinwiddie was a hard working blacksmith, living a few miles below town, an honest man, a Kentuckian by *raising*, a man of powerful will and constitution, a good fighter, and was able to manage a large supply of whisky, and still wield the sledgehammer; but when the jury retired to the garret of the “Madison House,” where court was held, the foreman had much more than his usual supply. Maj. Herring moved that Hawkins Taylor act as secretay for the jury. This the fore-

man took as a direct insult, and declared that he could do "all the writing needed by the jury," and at once demanded that if any one was to be indicted, "bring them in." The first case presented was the steamboat Bee. The offense was the taking off the old man Kellogg, deputy sheriff, who had gone on board at Fort Madison to serve an attachment on the boat, when the captain cut his line and backed out, and took off the officer, carrying him down to Warsaw, and then only running near enough to the shore to let the officer jump off. Kellogg was a weakly, timid, good old man, When he appeared before the grand jury, the foreman took his pen and *marked* down the case, and then turned to the witness, and with great earnestness, said, "*Where is the steamboat Bee?*" To this the witness could give no positive information, as he had not seen her since the previous fall. The foreman then said bitterly, "If you want the steamboat Bee indicted, *bring her up here, bring her up here.* She may be gone to the devil, or she may be gone to Texas,—if you want her indicted, *bring her up here,*" and at once commenced to tear up the memorandum that he had made, saying, loudly but to himself, "No bill, no bill," and then turned to the witness and said, "You may go;" and he went, apparently, with about as much feeling of relief as when he escaped from the steamer the fall before. Several other cases were brought up and disposed of by the foreman in the same summary manner, one being a case of James Fike, for an assault with intent to kill, made on George Perkins, a peaceable, good citizen. In this case the foreman found a true bill. The next morning sentinels were placed below town to meet the foreman, and get him into the jury room before he had an opportunity to take more whisky than he could manage. The plan was successful, and after that there was no trouble with the foreman. But there were many amusing incidents that took place in the jury room. Amongst them, Henry D. Davis, who was a member of the jury, tried to indict Morehead, who had, while in jail, cut up and destroyed his leather, for breaking jail. Davis proved, by Isaac Johnson, another juror, that

Morehead was in the habit of crawling into the jail at night; in fact, that he went out and in when he wanted to. There were about sixty bills found by this grand jury, mostly for gambling. All of the bills were decided, on trial, to be defective. I believe that *no single* indictment found in Lee county up to the organization of Iowa territory, was sustained by the court on trial; but it was about as well as if they had been good. There was no penitentiary in the territory, and no place to keep criminals, and those indictments caused many to run off to where they had both jails and penitentiaries; and in those days Judge Lynch held court occasionally. In his courts there was no demurring to indictments, and so seldom mistakes in his rulings that there was a very wholesome dread amongst the worst class of criminals to coming into that popular court.

THE EARLY BAR OF LEE COUNTY.

[The following interesting sketch of a Court Scene in the pioneer days of Lee county we reproduce from the *Daily Constitution*, of Keokuk, in which able journal it appeared some months ago.]

THE traveler through Keokuk, as he views its superb private and public buildings, and notices the thick stream of human beings who throng its streets and marts of commerce, can hardly realize that thirty years ago nearly all the ground of Keokuk was covered by a dense growth of bushes and trees, and that the most important character then of the place, financially considered, was a wood dealer; one who had erected a log hut near the river, and there kept a wood-yard, selling occasionally a few cords to the few steamers which then ventured on the waters of the upper Mississippi. Yet such was the fact. The wood dealer referred to was a Yankee, who could turn his hand occasionally to any sort of business that would earn a penny; and he had managed by some means to become the owner of what was called in the

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